**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**

**Writ Petition No.24574 of 1995**

**Between:**

Chella Saraiah … Petitioner

**AND**

The Management of Singareni Collieries Company Ltd., Ramagundam Division-II and another. … Respondents

**:: O R D E R ::**

Counsel for the petitioner : Sri B. Siva Kumar for Sri G. Vidyasagar.

Counsel for respondent No.1 : Ms. V. Uma Devi for Sri K. Srinivasa Murthy

**4th April, 2007**

Whether the petitioner is entitled to receive bonus and monetary benefits in lieu of leave travel concession for the period during which he remained out of employment is the question which arises for determination in this petition filed by him for quashing order dated 10-11-1993 passed by Labour Court-I, Hyderabad (for short, 'the Labour Court') in Central Miscellaneous Petition No.11 of 1988.

The petitioner joined the service of Singareni Collieries Limited (for short, 'the company') as Badli Filler in 1973. He was promoted as Conveyor Operator in 1978. His service was discontinued with effect from 15-9-1982. The dispute raised by the petitioner was registered as

I.D.No.24 of 1986. By an award dated 2-12-1986, Industrial Tribunal (Central), Hyderabad (for short, 'the Tribunal') ordered his reinstatement with full back wages and other attendant benefits.

The petitioner was reinstated with effect from 1-5-1987, but he was not paid back wages and other monetary benefits. Therefore, he filed an application under Section 33-C(2) of the 1947 Act and prayed that the management of the company be directed to pay him monetary benefits i.e. back wages, bonus, ex gratia, interim relief, leave travel concession and conveyance allowance. During the pendency of the application, the management paid him Rs.61,672.19 p. towards back wages, but his claim for payment of bonus and grant of monetary benefit in lieu of leave travel concession was not accepted.

By the impugned order, the learned Judge, Labour Court-I, Hyderabad rejected the petitioner's claim by recording the following observations:

> "In respect of L.T.C. and Long tour leave travel concession I find the petitioner is not entitled to any amount for petitioner has not really undertaken any travel. If the petitioner is entitled for encashment of any such facilities, he is not precluded from doing so as per rules by applying to the respondent for encashment and it is not a benefit that can be paid to the petitioner automatically by the respondent without even petitioner applying for encashment of leave travel concessions if such a practice is in vogue. Likewise, the petitioner is also not entitled to conveyance allowance during the period he is out of service for he his not actually attend office. Therefore, the petitioner is also not entitled to any conveyance allowance. The respondent produced Ex.M-1 which showed the payment of wages entitled to be paid to the petitioner. MW.2 in his evidence stated that they paid all the back wages as per Ex.M-1 and he has also stated that they have paid underground allowance by mistake to the petitioner. Though the petitioner suggested that the Ex.M-1 did not show the correct calculations in payment of back wages, the petitioner has not filed any calculation made by him to show how and where the respondent has committed mistake and what

> further amount the petitioner is entitled to. Therefore, for these reasons I hold that the petitioner is not entitled to any further amount. Hence, the point is held accordingly."

Sri B. Shiva Kumar submitted that he is not pressing the petitioner's prayer for grant of monetary benefit in lieu of leave travel concession but argued that the rejection of his claim for bonus is legally untenable and, to that extent, the order under challenge is liable to be set aside. He referred to the provisions of Payment of Bonus Act, 1965 (for short, 'the 1965 Act'), and argued that the petitioner is entitled to bonus because his case does not fall within the ambit of exclusion clause contained in
Section 9 of the 1965 Act. He further argued that in exercise of the power under Section 33-C(2) of the 1947 Act, the Labour Court can decide all claims relating to the benefits which are capable of computation in terms of money and, therefore, rejection of the petitioner's claim for bonus is liable to be declared illegal.

Ms.V. Uma Devi, learned counsel for the company relied on the decision of the Division Bench in **Andhra Scientific Co. v. Labour Court**[1] and submitted that the petitioner's claim for bonus and leave travel concession has been rightly rejected by the Labour Court.

I have thoughtfully considered the respective submissions. Section 33-C(2) of the 1947 Act reads as under:

> "33-C(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as t the amount of money due or as t the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government 3 within a period not exceeding three months;
>
> Provided that where the Presiding Officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit."

In **Andhra Scientific Co. v. Labour Court** (supra), the Division Bench referred to various judicial precedents on the subject and held as under:

(1) the jurisdiction of the Labour Court under Section 33-C(2) is like that of executing Court. It can interpret the award for the purposes of execution;

(2) the Labour Court can decide the question whether benefit claimed is based on an existing right, and

(3) that the workman is entitled to the benefit of revision of pay scales during the period of illegal termination.

However, the workman's claim for bonus and monetary benefits in lieu of leave travel concession was negatived in the following words:

> "As regards the claim for bonus and conversion of leave of the employee into cash, we must say that the claim is untenable. The bonus is excluded from the definition of "Wages" in Section 2(rr) of the Act. So, there is a statutory bar to claim bonus and what was awarded to the employee was back wages. The employee is also not entitled under the award to get the benefit of conversion of leave into cash, as what was preserved by reinstatement was continuity of service. He would not be entitled to leave unless he had actually worked during the period. Leave has to be earned to entitle him to the benefit of conversion of leave into cash. Since he had not earned any leave, his claim for conversion of leave into cash has to be negatived."

The view taken by the Division Bench on the interpretation of Section 33-C(2) finds ample support from the judgments of the Supreme Court – **Central Bank of India Ltd. v. P.S. Rajagopalan**[2], **Bombay Gas Co. Ltd. v. Gopal Bhiva**[3], **Municipal Corporation of Delhi v. Ganesh Razak**[4], **Steel Authority of India Ltd. v. Natinal Union Waterfront Workmen**[5] and **Uttar Pradesh State Road Transport Corporation v. Birendra Bhandari**[6].

By applying the ratio of the above-noted judgments, I hold that the order under challenge does not suffer from any error of law apparent on the face of the record and the writ petition is liable to be dismissed. Ordered accordingly.

**G.S.SINGHVI, C.J.**

4th April, 2007.

ARS

---

[1] 1971 LAB. I.C. 513

[2] AIR 1964 SC 743

[3] AIR 1964 SC 752

[4] (1995) 1 SCC 235

[5] (2001) 7 SCC 1

[6] (2006) 10 SCC 211